

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EDSON TORO

v.

A.T. WALL

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C.A. No. 08-118S

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner Edson Toro's Motion to Proceed *In Forma Pauperis* ("IFP") pursuant to 28 U.S.C. § 1915. (Document No. 31). The Motion has been referred to me for determination. 28 U.S.C. § 636(b)(1)(A); LR Cv 72(a). Petitioner has submitted his prison trust account statement and a supporting Affidavit, and his Motion to Proceed IFP (Document No. 31) is GRANTED.

Pursuant to 28 U.S.C. § 1915(b)(1), however, a prisoner who is granted leave to proceed IFP must pay, as an initial partial filing fee, twenty percent (20%) of the greater of (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in his account for the six-month period immediately preceding filing of the complaint. After paying the initial partial filing fee, the prisoner shall be required to make monthly payments of twenty percent (20%) of the preceding month's income credited to his account. 28 U.S.C. §1915(b)(2). The agency having custody of the prisoner shall forward such subsequent payments from the prisoner's account to the Clerk of the Court each time the amount exceeds \$10.00 until the filing fee is paid in full. Id.

Accordingly, after a review of Petitioner's prison trust account statement, and his Affidavit filed in support of his Motion to Proceed IFP, Petitioner shall be assessed an initial partial filing fee payment of \$15.00. The Rhode Island Adult Correctional Institutions ("ACI") is hereby ordered to forward an initial payment on Petitioner's behalf to the Clerk of the Court for the District of

Rhode Island. Provided Petitioner's prison trust account equals or exceeds the initial fees assessed, the initial fee shall be forwarded to the Clerk of the Court within twenty (20) days of this Order. If Petitioner lacks sufficient funds to pay the fee, the initial payment shall be forwarded by the ACI as soon as the balance in Petitioner's prison trust account equals or exceeds \$15.00. Furthermore, the ACI shall forward to the Clerk of the Court subsequent monthly payments of twenty percent (20%) of Petitioner's preceding month's income each time Petitioner's account balance exceeds \$10.00. Such fees shall be forwarded until the filing fee of \$455.00 has been paid in full.

So ordered.

PER ORDER:

/s/ Jeannine Noel
Deputy Clerk

ENTER:

/s/ Lincoln D. Almond
Lincoln D. Almond
United States Magistrate Judge
November 24, 2008